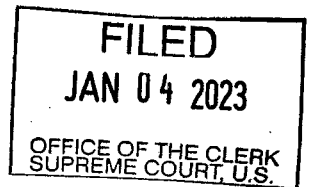


22-6860

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



SHAVELLE OSCAR CHAVEZ-NELSON PETITIONER
(Your Name)

vs.

GOVERNOR TIM WALZ ETAL RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. DISTRICT COURT DISTRICT OF MINNESOTA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SHAVELLE OSCAR CHAVEZ-NELSON
(Your Name)

970 PICKETT STREET NORTH
(Address)

BAYPORT, MN 55003
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

CAPITAL CASE - DEATH BY INCARCERATION

1. WAS PETITIONER DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE UNITED STATES CONSTITUTIONS BILL OF RIGHTS - SIXTH AMENDMENT? WHEN TRIAL COUNSEL FAILED TO INVESTIGATE?

2. DID ~~THE~~ THE MINNESOTA SUPREME COURTS DECISION PETITIONERS INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIM (FAILURE TO INVESTIGATE) RESULT IN A DECISION THAT INVOLVED AN OBSCURELY UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW AS DETERMINED BY THIS COURT?

3. ~~WAS~~ THE MINNESOTA SUPREME COURTS DECISION BASED ON AN OBJECTIVELY UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED IN THE STATE COURT PROCEEDINGS.

4. SHOULD THE UNITED STATES DISTRICT COURT HAVE GRANTED PETITIONER REQUEST FOR ISSUANCE OF THE GREAT WRIT OF HABEAS CORPUS?

CAPITAL CASE - DEATH BY INCARCERATION

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TIM WALZ MINNESOTA GOVERNOR, PAUL SCHNELE
MINNESOTA DEPARTMENT OF CORRECTIONS, COMMISSIONER OF
CORRECTIONS

RELATED CASES

- STATE V. CHAVEZ-NELSON, 882 N.W.2D 579 (MINN. 2016)
- STATE V. CHAVEZ-NELSON, 948 N.W.2D 665 (MINN. 2020)
- CHAVEZ-NELSON V. DAYTON, 2018 U.S. DIST. LEXIS 34390
- CHAVEZ-NELSON V. DAYTON, 2018 U.S. DIST. LEXIS 220387
- CHAVEZ-NELSON V. TIM WALZ, 17-CV-4098, U.S. DIST. COURT, JUDGMENT ENTERED JAN. 25, 2019
- CHAVEZ-NELSON V. TIM WALZ, 17-CV-4098, U.S. DISTRICT COURT FOR THE DISTRICT OF MINNESOTA, JUDGMENT ENTERED AUG. 19, 2021.
- CHAVEZ-NELSON V. TIM WALZ, 17-CV-4098, U.S. DISTRICT COURT FOR THE DISTRICT OF MINNESOTA, JUDGMENT ENTERED DEC. 3, 2021
- CHAVEZ-NELSON V. TIM WALZ, 17-CV-4098, U.S. DISTRICT COURT FOR THE DISTRICT OF MINNESOTA, JUDGMENT ENTERED MAY 18, 2022
- CHAVEZ-NELSON V. TIM WALZ, NO: 22-2304, U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT, JUDGMENT ENTERED AUG. 31, 2022
- CHAVEZ-NELSON V. TIM WALZ, NO: 22-2304, U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT, JUDGMENT ENTERED NOV. 2, 2022

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☒ reported at NO. 22-2304; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☒ reported at 0:17-cv-04098-PJS-DTS; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☒ reported at 948 N.W.2d 665; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the MINNESOTA SUPREME COURT court appears at Appendix _____ to the petition and is

☒ reported at 948 N.W.2d 665; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was AUGUST 31, 2022.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: NOVEMBER 2, 2022, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was SEPT. 16, 2020.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- UNITED STATES CONSTITUTION BILL OF RIGHTS AMENDMENT 6
- UNITED STATES CONSTITUTION BILL OF RIGHTS AMENDMENT 9
- TITLE 28 UNITED STATES CODE 2254(d)(1)
- TITLE 28 UNITED STATES CODE 2254(d)(2)
- THE HABEAS CORPUS ACT OF 1867

STATEMENT OF THE CASE

ON SEPTEMBER 16, 2020 THE MINNESOTA SUPREME COURT ADDRESSED THE MERITS OF A FEDERAL CONSTITUTIONAL CLAIM REGARDING INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, THAT THE UNITED STATES DISTRICT COURT HAD PREVIOUSLY AND WRONGFULLY CONCLUDED WAS PROCEDURALLY DEFAULTED IN THE ORIGINAL HABEAS CORPUS ACTION. (JAN. 25. 2019 U.S. DISTRICT COURT ORDER). ON AUGUST 19, 2021, FOLLOWING AN TIMELY FILED FED. R. CIV. P. 60(b)(6) MOTION, THE DISTRICT COURT ORDERED THE REOPENING OF THE ORIGINAL HABEAS CORPUS PROCEEDINGS FOR THE PURPOSE OF ADDRESSING THE MERITS OF PETITIONERS CLAIM THAT HIS STATE-APPOINTED TRIAL COUNSEL WERE CONSTITUTIONALLY INEFFECTIVE FOR FAILING TO INVESTIGATE THE CRIME SCENE. ON MAY 18, 2022 THE U.S. DISTRICT COURT ADOPTED THE MAGISTRATES REPORT AND RECOMMENDATION TO DENY FEDERAL RELIEF, AND SEPARATELY OPINED THAT THE STATE OF MINNESOTA (RESPONDENTS) DID NOT WAIVE A 2254(b)(2) ARGUMENT UNDER BRUMFIELD V. CAIN, 576 U.S. 305 (2015). THE EIGHTH CIRCUIT COURT OF APPEALS DENIED REHEARING AND REHEARING EN BANC. THIS PETITION FOLLOWS.

REASONS FOR GRANTING THE PETITION

THIS HONORABLE COURT MUST GRANT THIS PETITION BECAUSE THE MINNESOTA SUPREME COURT AND LOWER FEDERAL COURTS HAVE DECIDED IMPORTANT FEDERAL QUESTIONS IN THIS CASE IN WAYS THAT PATENTLY/ CONFLICT WITH RELEVANT DECISIONS OF THIS COURT TO INCLUDE BUT NOT LIMITED TO: WILLIAMS V. TAYLOR, 529 U.S. 362 (2000); STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984); PRICE V. VINCENT, 538 U.S. 634; PANETTI V. QUARTERMAN, 551 US 930; WIGGINS V. SMITH, 539 U.S. 510; ROMPELLA V. BEARD, 545 US 374; BRUMFIELD V. CAIN; 576 U.S. 305 (2015); GRANITE ROCK CO. V. TEAMSTERS, 561 U.S. 287.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Charvella Oscar Plaster-Rick

Date: FEBRUARY 14, 2003